

ORDINANCE NO. 378

AN ORDINANCE REPEALING ORDINANCE 361 AND PROVIDING FOR A THE ISSUANCE OF PERMITS FOR ENCROACHMENT ON COUNTY ROADS, ENUMERATION OF THE CHAPTER, REQUIRING INFORMATION FOR GIS PURPOSES, REGULATING DUST ABATEMENT AND WEED IMPORTATION, AND REGULATING THE INSTALLATION OF CATTLE GUARDS AND CULVERTS.

WHEREAS, Carbon County has previously enacted Ordinance No. 361, regulating Encroachment Permit on County roads; and

WHEREAS, the Board of County Commissioners has determined it is in the best interests of the citizens of Carbon County to repeal Ordinance No. 361 and enact the following ordinance to regulate Encroachment Permit on County roads;

NOW, therefore the Board of County Commissioners of Carbon County Utah ordains as follows:

SECTION ONE: ORDINANCE.

Encroachments – Sections:

- 7-2-1: Definitions
- 7-2-2: General Provisions
- 7-2-3: Classes of Permits
- 7-2-4: Bond Requirements
- 7-2-5: Liability Insurance
- 7-2-6: Encroachment Procedure
- 7-2-7: Emergency Encroachments
- 7-2-8: Maintenance Encroachments
- 7-2-9: Cattle Guards
- 7-2-10: Culverts
- 7-2-11: Fees and Required Documents
- 7-2-12: Minimum Construction Standards
- 7-2-13: Application of Provisions
- 7-2-13: Unlawful Encroachments
- 7-2-14: Repealer and Severability

7-2-1: Definitions.

A. **AASHTO** means the most recent edition of *A Policy on Geometric Design of Highways and Streets* published by the American Association of State Highway and Transportation Officials.

B. **Applicant** means every natural person, partnership, corporation, firm, association or legal entity seeking to encroach upon an Existing County Roadway.

C. Annual Blanket Permit means an Encroachment Permit issued for a period of one calendar year, *based upon a written plan*, to Applicants who, of necessity, may make numerous Encroachment Permits. The Annual Blanket Permit is designed to alleviate the necessity of securing a performance and completion bond for each Encroachment Permit.

D. Disproportionate Use means use or impacts exceeding the functional design specifications of an existing road, right-of-way, and/or associated structures, or substantially expanding the normal use patterns thereof.

E. Encroachment means the disturbance of any roadway or right-of-way.

1. A Class 1 Encroachment means Encroachment on County roadways by connection of residential driveways or private or other roadways, parking areas, or other structure affecting or altering the shoulder of the Existing County Roadway, OR by installation of cattle guards.

2. A Class 2 Encroachment means Encroachment by grading, construction, reconstruction, surfacing or resurfacing, alignment or realignment, excavation, boring or jetting, obstruction, removal of materials, vibroseising, Heavy Haulage, as defined herein, or use exceeding the normal function or use of County roads including extraordinary use.

3. A Class 3 Encroachment means excavating, boring, jetting, cutting of pavement or other disturbance by utilities within County road right-of-way for the purpose of installing, repairing or maintaining cables, pipelines, or other Utility structures buried within the roadway or right-of-way.

F. Encroachment Permit means the written permission given an Applicant by the Supervisor conditionally authorizing an Encroachment or a series of Encroachments and setting forth the details specifications and limitations thereof.

G. Existing County Roadway means any roadway listed on the Carbon County road system, together with the right-of-way therefor, and any other right-of-way, trail or path over which Carbon County has acquired, by any means, the right of passage, whether by conveyance or prescription.

H. Heavy Haulage means travel over County roadways by vehicles exceeding 21,000 pounds gross vehicle weight.

I. Line means any pipeline, cable, wire, or conduit used by a Utility for transmission of its product or services.

J. Maintenance means work on a road which, although constituting an Encroachment hereunder, is required to keep the same in good condition, extend its life, repair normal wear and tear, repair, replace or modify existing structures including, but not limited to, poles, culverts, pipelines, guardrails, signs or other items in, on or under the travel way or right-of-way, consistent with the existing condition and design specifications of the roadway.

K. MUTCD means the most recent edition of Manual on Uniform Traffic Control Devices promulgated by the Federal Highway Administration of the U.S. Department of Transportation.

L. New Construction means any activity which changes the current condition of the roadway or right-of-way, including, but not limited to, the installation, realignment, relocation, upgrading of poles, culverts, pipelines, concrete pads or aprons, or other objects or structures in, on or under the roadway or right-of-way, and the upgrading, construction, reconstruction, surfacing or resurfacing of a roadway and any necessary effects of such activity on the right-of-way.

M. Permittee means an Applicant who has received an Encroachment Permit.

N. Supervisor means the Carbon County Road Department Supervisor or Acting Supervisor or County Engineer or his agent actually authorized to exercise the functions of the Supervisor under this Ordinance. This term does not permit reliance upon apparent authority, apparent agency or actions by County road employees in general.

O. Utility means any entity providing public services which consist of or require transportation of gas, oil, water, electricity, telecommunications, television or radio signals, or provide sewer service through underground pipelines, cables or conduits.

P. Servient Estate means land adjacent to or over which an Existing County Roadway lies.

7-2-2: General Provisions.

A. Acceptance. The exercise of any of the privileges upon the granting of a Permit under this Ordinance constitutes acceptance by the Permittee of all the conditions contained in the Permit or the provisions of this Ordinance.

B. Multiple Users. When any County road is used by more than one user whose use would qualify for permitting under this Ordinance, then all of those users must apply for, qualify and receive a Permit to use the road. Any costs and responsibilities required by the Permits for the use of the County road shall be shared by all involved Permittees, according to this use as determined by the Supervisor.

C. Inspectors. Whenever any section of this Ordinance requires a Permittee to provide an inspector for any Encroachments on County roads, that inspector shall meet the standards required by the Supervisor.

7-2-3: Classes of Permits.

A. Designation of Permit Classes

Three (3) classes of Encroachment Permits may be issued under this Chapter:

1. Class 1, for "Class 1 Encroachments" as defined in this chapter.
2. Class 2, for single, short-term Class 2 Encroachments, including any New Construction or commercial haulage.
3. Class 3; for Encroachments by utilities for the installation, repair and maintenance of cables, pipelines or other Utility structures located in the road right-of-way.

B. Class 1 Permit:

1. Application for Permit: A Class 1 Permit may be obtained by completing and submitting an application in a form which shall be adopted and provided by the Carbon County Road Department and which shall require the Applicant to set forth:

- a. The name, address and telephone number of the Applicant.
- b. The location of the proposed Encroachment.
- c. A description of the proposed Encroachment including the purpose therefor, the dimensions thereof, the materials to be used, the times and dates thereof, and such other information as the Supervisor shall deem pertinent, including, but not limited to, the proposed use of any fungicide, pesticide, herbicide or any chemical or other road surface treatment specifying the purpose, the area to be treated, the materials used in the treatment, and the time, rate, and method of application.
- d. An undertaking by the Applicant guaranteeing the completion of any improvements or construction proposed therein in conformance to the specifications contained in the application, and an agreement that upon failure to do so, the County or other competent contractor may complete the same to its satisfaction and charge the costs thereof to the Applicant.

2. Application Fee: Each application shall be accompanied by a non-refundable application fee in the amount set forth in the most current Fee Schedule issued hereunder.

3. Review of Application; Grant or Deny: The Supervisor shall confer with Planning and Zoning and other affected agencies during preliminary phases and shall review the application and shall within five (5) to ten (10) working days either grant the application or deny it. If he denies the application, he shall return it to the Applicant and set forth in writing attached thereto his reasons for doing so. The Applicant may submit an amended application at any time thereafter.

C. Class 2 Permit:

1. Application for Permit: A Class 2 Permit may be obtained by completing and submitting an application in a form which shall be adopted and provided by the Carbon County Road Department and which shall require the Applicant to set forth:

- a. The name, address and telephone number of the Applicant.
- b. The location of the proposed Encroachment, or the road(s) or portion(s) thereof to be affected thereby with maps or comprehensive sketches.
- c. A comprehensive description on a written form or on company letterhead of the proposed Encroachment including the purpose therefor, the type and scope of activities, haul tonnages, schedules, or a Utility Line Agreement Form provided to the Carbon County Road Department and such other information as the Supervisor shall deem pertinent including, but not limited to, the proposed use of any fungicide, pesticide, herbicide or any chemical or other road surface treatment specifying the purpose, the area to be treated, the materials used in the treatment, and the time, rate, and method of application.
- d. An undertaking by the Applicant guaranteeing the completion of any improvements or construction proposed therein in conformance to the specifications contained in the application in a bond or a letter of assurance, and an agreement that upon failure to do so, the County or other competent contractor may complete the same to its satisfaction and charge the costs thereof to the Applicant.

2. Application Fee: Each application shall be accompanied by a non-refundable application fee in the amount set forth in the most current Fee Schedule issued hereunder.

3. Review of Application; Grant or Deny: The Supervisor shall review the application and within a reasonable amount of time, not to exceed ten (10) working days, either grant the application or deny it. If he denies the application, he shall return it to the Applicant and set forth in writing attached thereto his reasons for doing so. The Supervisor is authorized to waive application fees for amended applications if, in his opinion and at his sole discretion, the amended application will not entail a significant amount of additional time to review beyond that previously conducted. Upon granting the application, the Supervisor may impose any conditions, limits, bonds, or other guarantees he may deem necessary to protect the County or assure the compliance by the Applicant with the terms of said Permit.

D: Class 3 Permit:

1. Application for Permit: A Class 3 Permit may be obtained by completing and submitting an application in a form which shall be adopted and provided by the Carbon County Road Department and which shall require the Applicant to set forth:

a. The name, address and telephone number of the Applicant.

b. The location of the proposed Encroachment together with a description of the road(s) or portion(s) thereof to be affected thereby.

c. A description of the proposed Encroachment including the purpose therefor, the type and scope of activities, if hauling, enclose a route map, haul tonnages, schedules, and/or a Utility Line Agreement Form provided by the Carbon County Road Department, and such other information as the Supervisor shall deem pertinent, including, but not limited to, the proposed use of any fungicide, pesticide, herbicide or any chemical or other road surface treatment specifying the purpose, the area to be treated, the materials used in the treatment, and the time, rate, and method of application.

d. Maps, plats or engineering drawings displaying the current locations in pertinent views of Utility lines within the County right-of-way to be affected by the proposed Encroachment and the proposed alignment of any new or replacement Lines or pipelines for which the Permit is requested.

e. An undertaking by the Applicant guaranteeing the completion of any improvements or construction proposed therein in conformance to the specifications contained in the application, and an agreement that upon failure to do so, the County or other competent contractor may complete the same to its satisfaction and charge the costs thereof to the Applicant.

f. A waiver by the Applicant of any and all liability for damage to its Lines by the County or by other utilities whose existing Lines are located within the vicinity of the proposed new or replacement line.

2. Application Fee: The application shall be accompanied by a non-refundable application fee in the amount set forth in the most current Fee Schedule issued hereunder.

3. Review of Application; Grant or Deny: The Supervisor shall review the application and shall within a reasonable time, not to exceed ten (10) working days, either grant the application or deny it. If he denies the application, he shall return it to the Applicant and set forth in writing attached thereto his reasons for doing so. The Supervisor is authorized to waive application fees for amended applications if, in his opinion and at his sole discretion, the amended application will not entail a significant amount of additional time to review beyond that previously conducted. The Supervisor shall review the application with a view toward eliminating or minimizing potential overlaps, conflicts or interference between utilities using the right-of-way and may, at his discretion, specify where the Applicant may place its proposed linear lines in relation to existing Utility lines, and may impose any additional conditions, limits, bonds, insurance, waivers or other guarantees he may deem necessary to protect the County and other Utility users of the right-of-way and to assure the compliance by the Applicant with the

terms of said Permit. Placement of gas and power lines and other utilities shall, to the extent possible, be on the side of the road as directed by the Supervisor. Each Applicant, as a condition of the release of the bond required in this chapter, shall notify blue stakes, and provide g.p.s. location information to the Carbon County GIS department sufficient to maintain Utility and drainage mapping current.

E. Restricted Approvals or Denial of Permit; Appeals: If the Supervisor determines that the Encroachment proposed will unreasonably or excessively interfere with traffic patterns, or will disrupt use of the roads involved for an unreasonably extended period, or that such Encroachment is not reasonably necessary to a legitimate activity or can be avoided by other reasonable measures, he may require a project agreement or deny a Permit application absolutely. The Supervisor shall issue such a denial in writing and shall state his findings with regard to the application and state his reasons for denying the application, and shall mail or deliver a copy of such denial to the Applicant and to the Board of County Commissioners. In such an event, the affected Applicant may appeal the denial to the Board of County Commissioners by submitting a written request for review within thirty (30) days after the date the denial is mailed or delivered. The Board of County Commissioners shall Permit the Applicant an opportunity to appear at a public meeting, either specially called or a regularly scheduled commission meeting, no later than twenty (20) days following the filing of said request and shall render their decision no later than ten (10) days following such meeting.

7-2-4: Bond Requirements.

A. Condition of Bond: Whenever a bond or guarantee is required hereunder, the same shall be conditioned upon the complete restoration of the site of the Encroachment to the satisfaction of the Supervisor.

B. Bond Amounts; Adjustments:

1. The minimum bond required for each type of Encroachment shall be as follows:

Hard Surface Road:	\$5,000.00 minimum per disturbance
Gravel Surface Road:	\$4,000.00 minimum per disturbance
Dirt Surface Road	\$3,000.00 minimum per disturbance

2. Each project should be visited and any special requirements may require the bond to be adjusted to each special condition.

C. Integration of Bond with Contract or Agreement: The bond for New Construction, Maintenance, resurfacing and/or realignment of a roadway may be integrated with a project contract bond or special agreement.

D. Damaged Roadways: The amount of a bond for damage caused by commercial haulage shall be determined case-by-case and fixed by the Supervisor.

E. Determination of Bond Amount: The Supervisor, as part of his review of each Permit application, shall determine the amount of the bond required, based upon the location, duration, and extent of the proposed Encroachment together with all other pertinent factors. The granting of a Permit shall be conditioned upon the delivery and acceptance of the bond by the Supervisor.

F. Inspectors and Fees: An inspector shall be on the job when specified by the Supervisor. The inspector's fees shall be paid for by the Applicant. Inspectors shall be approved by the Supervisor.

G. Effect on Bonds: Bonds given pursuant to this Section shall remain in force and effect for a period of three years from the date the job is completed when the roadway or right-of-way is disturbed or when any object, including, but not limited to, Utility Lines, culverts, etc., is placed beneath the surface of the roadway or right-of-way. Bonds in all other cases remain in force for one year from the completion of the project.

7-2-5: Liability Insurance.

The Supervisor is authorized to require, as a condition for the granting of a Permit hereunder, a policy of liability insurance to be obtained by the Applicant, naming the County as co-insured, insuring against liability for property damage and personal injury in an amount not less than two million (\$2,000,000.00) dollars which may result from road conditions created by the Encroachment. When such insurance is required, no Permit shall be issued until the policy or a valid binder therefore has been delivered to the Supervisor. Such bonds and insurance policy shall remain in force and effect for so long as is specified by the Supervisor, not to exceed five years after the completion of the project. The County shall have no liability for damages or injury to persons or property which result from the Applicant's Encroachment on a roadway.

7-2-6: Encroachment Procedure.

A. General Requirements: Once an Applicant has obtained a Permit, work or haulage may begin during the specified time. The work shall progress in a prompt and orderly fashion without unnecessary delays and shall be performed in a good and workmanlike manner in accordance with the plans, specifications and conditions set forth in the Encroachment Permit.

B. Time Limit: The Encroachment must be completed within the time set forth in the Permit, unless extended in writing by the Supervisor which extension shall be granted for good cause upon request by the Permittee. Failure by the Permittee to complete the permitted work by the completion date shall constitute grounds for the forfeiture of its bond.

C. Excavations:

1. Excavation operations shall be conducted in such a manner that minimum interference or interruption of road traffic and/or inconvenience to residents and businesses fronting on public roads will result.

2. Suitable, adequate and sufficient barricades as specified in the MUTCD shall be provided by the Permittee and used where necessary to prevent accidents. Barricades must be in place until all excavators' equipment is removed from the site and excavation has been backfilled and proper temporary gravel surface is in place.

3. From sunset to sunrise all barricades and excavations must be clearly outlined by acceptable warning lights, lanterns, flares, and other devices as specified in the MUTCD.

4. The Permittee shall notify the County sheriff's office, Utah Highway Patrol, cities and towns within a ten-mile radius, and local fire departments at least 24 hours in advance of any planned excavation requiring road closures or detours.

D. Dust and Weed Control, Maintenance and Signs; Costs:

1. Where required by the Supervisor, haulage activities shall require continuous dust control, including use of magnesium chloride or similar dust suppressant and Maintenance of the haul route to assure the safety of other users.

2. Special signing shall be required as indicated by the MUTCD. Damages to roadway will be promptly reported to the Supervisor. All loads shall be state legal with strict observation of all applicable vehicle laws.

3. Trucks and other construction equipment shall be cleaned of dirt and sod that may be transporting weed seed prior to use on County roads.

4. Unless otherwise agreed to by the Supervisor all dust control, Maintenance, signing, repairs or preventive measure costs shall be born by the Permittee.

E. Obligation of Permittee: The Permittee, its employees, contractors and associates shall be bound by conditions and agreements in effect between the County and other government, private agencies or individuals, to the degree such matters are set forth in the Permit or are actually known or made to be known to the Permittee.

7-2-7: Emergency Encroachments.

The Board of Carbon County Commissioners recognizes that from time to time emergency conditions may arise requiring Encroachment upon County roadways. Should such conditions exist, an Applicant may proceed with the Encroachment, provided that it shall notify the Carbon County Sheriff's Office at once and make diligent efforts to notify the Supervisor as soon as possible of the situation. The Applicant shall apply for an appropriate Encroachment Permit on the next working day following the Encroachment. The Encroachment may continue, so long as application has been made, unless and until the Applicant is ordered by the Supervisor to cease Encroachment. If an application for Encroachment has been made as required in this section, the Applicant will incur no penalty, otherwise all fees will be assessed in twice the

normal amount. All emergency work shall be in strict compliance with all the standards set forth in this chapter.

7-2-8: Maintenance Encroachments.

When Encroachment for Maintenance is necessary, the entity intending to engage in the Encroachment shall notify the Supervisor, in writing, no later than ten (10) working days before the Encroachment is made. The Supervisor shall, within five (5) working days following receipt of a notice pursuant to paragraph 1 of this Section, notify the party giving notice of the amount of the bond required, the necessity of any liability insurance and the amount of fees to be deposited. No work may commence until all fees have been paid and the Applicant has met other requirements.

7-2-9: Cattle Guards.

A. Application for Class 1 Permit: Any person desiring to install a cattle guard(s) on a County road must file with the County road department a detailed application and requirements for a Class 1 Encroachment Permit, stating the designation of the County road involved and the exact location, including the design and specifications for the cattle guard itself.

B. Review of Application; Grant or Denial: The Supervisor shall review the application and shall within a reasonable time, not to exceed five (5) working days, either grant the application or deny it. If he denies the application, he shall return it to the Applicant and set forth in writing attached thereto his reasons for doing so. The Supervisor is authorized to waive application fees for amended applications if, in his opinion and at his sole discretion, the amended application will not entail a significant amount of additional time to review beyond that previously conducted. Upon granting the application, the Supervisor may impose any conditions, limits, bonds, or other guarantees he may deem necessary to protect the County or assure the compliance by the Applicant with the terms of the Permit.

C. Responsibility of Applicant:

1. The Applicant will be required to supply all materials for the installation, in compliance with all materials and design specifications required by the Supervisor, including, but not limited to, concrete work, bases, re-bar, wings, fence posts and gates, etc., as needed. The cattle guard(s) must meet and be interchangeable with the Powder River U-54 type specifications (or equal to a 25 ton per axle load rating.)

2. The Applicant will be responsible to install a side gate and connect any adjacent fences to the cattle guards.

D. Responsibility of the County: The County will supply the necessary labor to construct and install the cattle guard(s) according to current specification and requirements, using materials and components provided by Applicant at the permitted site; provided, however, that upon recommendation from the Board of County Commissioners, or as required by a conditional use Permit or other condition of approval for development issued by the County, the Applicant

shall provide the labor to install a cattle guard(s) meeting the specifications and requirements of construction as directed by the Supervisor. In no event, however, shall the County assume liability to the Applicant for the performance of the construction.

E. Inspections: Upon completion of the installation, the Supervisor shall inspect the same and either accept the installation or require such further work as is necessary to satisfy the Supervisor. After three (3) years the Supervisor will re-inspect the installation and if acceptable, the County road department will assume responsibility for future maintenance of the unit as long as the road is part of the County road system.

F. Damage Through Improper Use: If a Permittee working under Section 5 herein damages a cattle guard on a County road, repair and or replacement will be at the cost of the Permittee, unless otherwise agreed to by the Supervisor.

7-2-10: Culverts.

A. General: Where the Supervisor, in his sole discretion, determines that the work required by a permit to be issued under this chapter will require the installation of a culvert beneath a County road, he may, as part of the Permit, require the Permittee to install a culvert.

B. Placement, Specification; Installation:

1. The Supervisor will determine the necessary placement of the culvert.
2. All culverts will be placed and buried pursuant to manufacturer's specifications or applicable highway standards.
3. Minimum culvert diameter shall be eighteen (18") inches, and the diameter and gauge thickness shall be determined by the Supervisor.
4. The culvert will be of sufficient length to adequately cross the travel width of the road and allow adequate signage or delineator without obstruction of the travel width.
5. Drainage from the culvert will be dispersed adequately so as not to cause erosion to any part of the road or adjacent lands.

C. Restrictions on Installation: No culverts shall be installed in County roads, except by the County road department, or pursuant to this chapter.

7-2-11: Fees and Required Documents.

A. Fee Amounts: Fees required to be paid under this chapter shall be fixed in an amount reasonably calculated to compensate the County for costs and time incurred for inspecting and reviewing the plans for the intended Encroachment, the work in progress and the completed project. The Supervisor is authorized and directed to prepare and distribute a schedule of fees

assessable under this chapter and to amend the same from time to time as needed to reflect changing conditions.

B. Submittal of Documents to Supervisor: All applications, fees, bonds, insurance policies or other documents required by this chapter shall be delivered to the Carbon County Road Supervisor at 120 East Main Street, Price, Utah 84501.

7-2-12: Minimum Construction Standards.

A. New Construction: New Construction shall be completed according to the plans and specifications approved in connection with an Encroachment Permit issued pursuant to this chapter.

B. Work Following Encroachments: All construction, Maintenance and repairs following Encroachments shall comply with the following minimum standards or with the minimum standards listed in the most current edition of the "State of Utah Standard Specifications Manual for Road and Bridge Construction", promulgated by the State of Utah Department of Transportation.

1. Preparation: In instances of high use, asphalt or gravel road boring under the roadway shall be required whenever possible. If the pavement, sidewalk, driveway, or other surface must be cut it shall be cut vertically along the lines forming the trench in such a manner as to prevent damage to the adjoining pavement or hard surfacing. An undercut level, at the rate of one inch per foot of thickness, will be provided at the proposed junction between the old and new surfaces. The portion to be removed shall be broken up in manner that will not cause damage to the pavement outside the limits of the trench. Any pavement damaged by operations outside the limits of the trench shall be replaced. All waste materials resulting from the excavation shall be removed from the site of the work.

2. Backfill:

a. Materials for backfill will be of a select nature. All broken concrete, peat, decomposed vegetable or similar other matter and frozen materials removed during excavation shall not be integrated into the backfill materials but shall be removed entirely from the site. All backfill will be placed in layers not over six (6") inches loose measure in thickness. Compaction will be accomplished by mechanical rollers, mechanical tampers or specified means. Materials for backfilling will have optimum moisture to ensure compaction to a degree equivalent to that of the undisturbed ground in which the trench was dug. Jetting or internal vibrating methods of compacting sand fill or similar methods of compacting sand or similar granular-free draining materials will be permitted as specified in the state standard specifications of AASHTO.

b. The density (dry) of the backfill under pavements, sidewalks, curbs, or other structures will be not less than that existing prior to excavation. The fill

shall be restored and placed in a good condition, which will prevent settling (state of Utah standard specifications).

3. Restoration of Surfaces:

a. Generally: All road surfacing, curbs, gutters, sidewalks, driveways, or other hard surfaces falling in the line of the excavation which must be removed in performance of the work shall be restored in kind by the Permittee, unless otherwise directed by the Supervisor, in accordance with the specifications contained herein and applicable state of Utah standard specifications and other applicable regulations governing the various types of surfaces involved.

b. Protection of Paved Surfaces: In order to avoid unnecessary damage to paved surfaces, track equipment shall use pavement pads or other protection devices when operating on or crossing paved surfaces. All outriggers or miscellaneous gear, which may compress road surfaces, shall have pad protection at points of contact.

c. Time: In traffic lanes of paved roads, the excavator shall provide temporary gravel surfaces or cold mulch in good condition immediately after completed backfill has been placed, and shall complete permanent repairs on the road, sidewalk, curb, gutter, driveway and other surfaces, within five (5) days from the date of completion of the backfill except for periods when permanent paving materials are not available or an extension of time is granted by the Supervisor.

d. Safety: The Permittee shall maintain all construction or repairs at acceptable safe standards until final repair is complete and accepted.

e. Temporary Repair: If temporary repair has been made on paved road with gravel and a permanent repair cannot be made within the time specified above due to any of the above-mentioned conditions, then the Permittee is required to replace the gravel with cold mulch as soon as possible. Permittee is required to monitor and maintain repairs at acceptable safe standards until final repair is complete and accepted.

4. Restoring Bituminous, Concrete or Asphalt Road Surfaces:

a. Temporary Grade Surface: Where excavations are made in paved areas, the surface shall be replaced with a temporary gravel surface. The gravel shall be placed deep enough to provide a minimum of six (6) inches of gravel for bituminous surfaces, twelve (12) inches of gravel for concrete, and concrete base for asphalt wearing surfaces. The gravel shall be placed in the trench at the time it is backfilled. The temporary gravel surface shall be maintained by blading, sprinkling, rolling, and adding gravel, to maintain a safe, uniform surface satisfactory to the Supervisor until the final surface is laid. Excess materials shall

be removed from the premises immediately. Materials for use on temporary gravel surfaces shall be obtained from sound, tough, durable gravel or rock meeting to following requirements for grading:

Passing 1-inch sieve	100%
Passing 3/4-inch sieve	85% - 100%
Passing No. 4 sieve	45% - 65%
Passing No. 10 sieve	30% - 50%
Passing No. 200 sieve	5% - 10%

b. Bituminous Surface: The exposed edges of existing pavement shall be primed with Type MC-1 Bituminous materials or better. The type, grade, and mixture of the asphalt to be used for road surface replacement shall be approved by the Supervisor. The thickness shall be equal to the adjacent surface thickness but not less than three (3) inches. The complete surface shall not deviate more than one-half (1/2) inch between old and new work.

c. Concrete Surfaces: The sub-base for concrete surfaces shall be sprinkled with clean water just before placing the concrete. Joints and surfaces shall be made to match the original surfaces. The thickness of concrete shall be equal to the adjacent concrete but in no case less than six (6) inches thick. The mixing, cement, water content, proportion, placement, and curing of the concrete will be approved by the Supervisor. In no case shall the concrete have less compressive strength than 3,000 pounds per square inch at the end of twenty-eight (28) days.

d. Concrete Base, Bituminous Wearing Surfaces: This type of surfacing shall be constructed as above described.

e. Gravel Surfaces: Trenches excavated through gravel-surfaced area, such as gravel roads, shoulders and unpaved driveways, shall have the gravel restored and maintained as described in paragraph B3d of this part, except that the gravel shall be a minimum of one inch more than the thickness of the existing gravel.

5. Relocation and Protection of Utilities:

a. An excavator shall not interfere with any existing Utility without the written consent of the Supervisor and without advance notice to the owner of the Utility.

b. If it becomes necessary to relocate an existing Utility, it shall be done by its owner unless the owner otherwise directs.

c. No Utility, whether owned by a governmental entity, by a private enterprise, shall be removed to accommodate the Permittee unless the cost of such work shall be born by the Permittee or an expressly written agreement is made

whereby the Utility owner and the excavator make other arrangements relating to such costs.

d. The Permittee shall support and protect by timbers or otherwise all pipes, conduits, poles, wires, or other apparatus which may be in any way affected by the excavation work, and shall do everything necessary to support, sustain and protect them under, over, along, or across the work.

e. In case any of the pipes, conduits, poles, wire, or apparatus should be damaged (and for this purpose pipe coating or other encasement or devices are to be considered as part of a substructure), they shall be repaired by the agency or person owning them, but the Utility owner shall be reimbursed for the expense of such repairs by the Permittee.

f. It is the intent of this subsection B5 that the Permittee shall assume all liability for damage to substructures, and any resulting damage or injury to anyone because of such substructure damage and such assumption of liability shall be deemed a contractual obligation, which the Permittee accepts upon acceptance of an excavation permit. The County need not be made a party to any action because of this part.

g. The Permittee shall inform itself as to the existence and location of all underground utilities and protect the same against damage.

6. Jetting and Boring: Jetting of pipe or Utility Lines shall not be used without prior permission from the Supervisor. Any damage to road surfaces, structures or Utility Lines due to jetting or boring operations shall be repaired to the satisfaction of the Supervisor by the Permittee or contractor conducting such operations, or may be repaired by the County and charged to the bond of such Permittee or contractor.

C. Heavy Haulage Encroachments: In addition to any other requirements under this Ordinance, Encroachment Permits for Heavy Haulage on County roads shall, at the discretion of the Supervisor, contain requirement that the Permittee ensure:

1. All roads used pursuant to the Permit have a minimum of 4 inches of aggregate surfacing during any use;

2. Aggregate depths shall be as much as 8 inches for time periods outside of the normal dry operating or winter seasons (June 1 through October 30);

3. Roads shall be improved to the specifications provided to the Permittee by the Supervisor;

4. All modifications shall be approved in writing by the Supervisor prior to installation and use;

5. All work performed shall meet the standards of the County for Specifications for Construction of Roads and Bridges.

7-2-13: Application of Provisions.

No Permit shall be required hereunder where the Encroachment involved constitutes County maintenance, as defined herein. All other provisions of this chapter, including, but not limited to, liability insurance, notice, fees and minimum construction standards, shall apply to any Encroachment of any County roadway.

7-2-14: Unlawful Encroachment.

A. Any person making or causing an Encroachment upon any County roadway, except for emergency Encroachments, without having first obtained a Permit from the Supervisor as required by this chapter, shall be guilty of a Class C Misdemeanor.

B. Any person having obtained an Encroachment Permit under this chapter who shall fail to comply with the terms of that Permit or to fulfill its conditions shall be guilty of a Class C Misdemeanor.

C. Any person who shall undertake an emergency Encroachment hereunder and fail to make application for a Permit on the first working day following commencement thereof shall be guilty of a Class C Misdemeanor.

D. Any entity, whether public or private, who engages agents, general contractors, or subcontractors for a project that requires roadway Encroachment and permits violations of this chapter to be committed by such agents, general contractors, or subcontractors shall be guilty of a Class C Misdemeanor.

7-2-15: Repealer and Severability.

A. Repealer: All ordinances for the regulation of roadway right-of-way Encroachment and providing penalty for the violation thereof, passed prior to the passage of this Ordinance, including but not limited to Carbon County Ordinance No. 361, are hereby revoked and repealed.

B. Severability: If any provision of this Chapter shall be declared invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect and shall not be nullified or affected thereby.

SECTION TWO: EFFECTIVE DATE.

The County Clerk/Auditor is directed to publish this ordinance once in the Sun Advocate newspaper in compliance with the provisions of Utah Code Annotated Section 17-53-508, and the ordinance shall become law after such publication.

PASSED, ADOPTED, and ORDERED PUBLISHED this 16th day of November, 2005.

CARBON COUNTY
BOARD OF COMMISSIONERS

By: William D. Krompel
William D. Krompel, Chairman

Attest:

Robert P. Pero
Robert P. Pero, County Clerk/Auditor

Commissioner William D. Krompel was absent
Commissioner Steven D. Burge voted for
Commissioner Michael S. Milovich voted for

